

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SEASONS USA, INC., and
SEASONS (HK) LTD.

Plaintiffs,

V.

FUN WORLD, INC., and EASTER
UNLIMITED, INC.,

Defendants.

§ § § § § § § § § § § §

CIVIL ACTION NO. 2:22-cv-416
JURY DEMAND

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs Seasons USA, Inc. and Seasons (HK) Ltd. (collectively “**Plaintiffs**” or “**Seasons**”) file this, their Original Complaint. Seasons assert a claim for infringement of U.S. Copyright Nos. VAu 1-284-994, VA 1-951-814, VAu 1-393-021, VA 1-894-928, VA 1-951-823, VA 1-925-299, and VAu 1-231-331 (collectively, the “**Copyrights**”) by Defendants Fun World, Inc. (“**Fun World**”) and Easter Unlimited Inc. (“**Easter**”) (collectively the “**Defendants**”). In support thereof, Seasons would respectfully show the Court the following:

PARTIES

1. Plaintiff Seasons USA, Inc. is a New York corporation with its principal place of business in Arkansas. Seasons USA, Inc. owns the Copyrights.

2. Plaintiff Seasons (HK) Ltd. is a company based in Hong Kong with its principal place of business located in Hong Kong. Seasons (HK) Ltd. licenses the Copyrights pursuant to which it manufactures and sales products that are covered by the Copyrights.

3. Defendant Fun World, Inc. is a New York corporation with its principal place of business located at 80 Voice Road, Carle Place, New York, 11514. Fun World does business throughout the State of Texas and within the Eastern District of Texas. Fun World may be served through an authorized agent located at 80 Voice Road, Carle Place, New York, 11514.

4. Defendant Easter Unlimited, Inc. is a New York corporation with its principal place of business located at 80 Voice Road, Carle Place, New York, 11514. Easter does business throughout the State of Texas and within the Eastern District of Texas. Easter may be served through an authorized agent located at 80 Voice Road, Carle Place, New York, 11514.

JURISDICTION AND VENUE

5. This Court has original subject matter jurisdiction over this case under 28 U.S.C. § 1338, as this action arises in part under the Copyright Act, 17 U.S.C. §§ 101, et seq., and 28 U.S.C. § 1331.

6. Venue is proper in this Court under 28 U.S. Code § 1400(a) as Defendants may be found in the Eastern District of Texas due to its sale and distribution of infringing products within this District. Defendants systematically and continuously distribute products, including the infringing products discussed herein, throughout Texas, to consumers located in the Eastern District of Texas and in Marshall, Texas.

FACTS

A. Seasons and Its Copyrighted Works.

7. Seasons is a leading designer, manufacturer, and wholesale provider of Halloween products, including masks, costumes, and home decorations. Among other items, Seasons has created unique sculptures of animal skeletons that are marketed to consumers as decorations for display in connection with Halloween. These items include: Buried Alive Skeleton, 16" Skeleton,

Wolf, Buster Bonez, Tweety Bonez, 36" Skeleton, Skeleton Vulture, Skeleton Rat, Skeleton Spider, Skeleton Fish, and Skeleton Bat (the **"Works"**).

8. The Works are wholly original works of authorship as defined by the Copyright Act, 17 U.S. Code § 102.

9. Seasons is the rightful owner of seven registered copyrights for the Works: Registration No. VAu 1-284-994, titled "2017 Lawn Decorations," was registered on January 5, 2017, a copy of which is attached as Exhibit A, p. 12; Registration No. VAu 1-951-814, titled "2015 Skeleton," was registered on March 3, 2015, a copy of which is attached as Exhibit A, p. 13; Registration No. VAu 1-393-021, titled "W80327 Howl at the Moon and 7 Other Unpublished Works," was registered on March 3, 2020, a copy of which is attached as Exhibit A, p. 14; Registration No. VA 1-894-928, titled "Crazy Bonez Skeleton Animals," was registered on December 20, 2013, a copy of which is attached as Exhibit A, p. 15; Registration No. VA 1-951-823, titled "2015 Crazy Bonez Skeleton Animals," was registered on March 3, 2015, a copy of which is attached as Exhibit A, p. 16; Registration No. VA 1-925-299, titled "Crazy Bonez 2014 Skeleton Animals," was registered on August 21, 2014, a copy of which is attached as Exhibit A, p. 17; and Registration No. VAu 1-231-331, titled "2016 Crazy Bonez Skeleton Animals," was registered on January 15, 2016, a copy of which is attached as Exhibit A, p. 18 (collectively, the **"Copyrights"**).

10. Seasons has manufactured, distributed, and displayed the Works to consumers as decoration for display in connection to Halloween. As a result, the Halloween season is the busiest time of the year during which Seasons sells the Works. Sales during this period account for the majority of Seasons' annual revenues.

B. Defendants' Infringing Conduct.

11. Fun World and Easter import, manufacturer, and distribute Halloween-themed decorations and other products, including products that are infringing copies of the Works (“the **Infringing Products**”), through their respective websites and online retailers, such as Walmart.com and Amazon.com.

12. Seasons purchased samples of the Infringing Products for inspection. As shown in the images below, the Infringing Products are copies of the Works:

IMAGE 1:



IMAGE 2:



IMAGE 3:



IMAGE 4:



IMAGE 5:



IMAGE 6:



IMAGE 7:

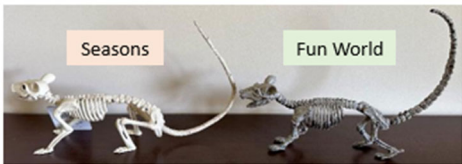


IMAGE 8:



IMAGE 9:

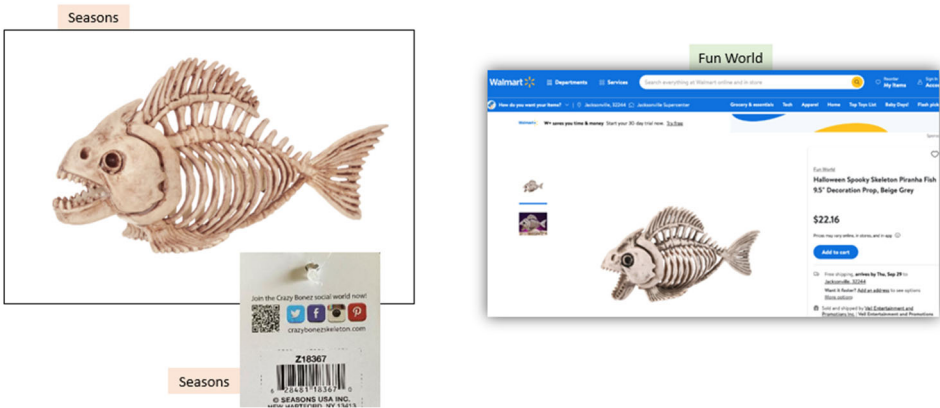


IMAGE 10:



Attached as Exhibit A, pp. 2–11 is a comparison of samples of the Works and the Infringing Products.

13. Fun World and Easter have used, and are presently using the Works without Seasons’ authorization or consent, and without paying any compensation to Seasons.

14. Fun World and Easter have willfully copied and exploited the Works in disregard of, and with indifference to, the rights of Seasons. Further, Defendants’ intentional, infringing conduct was undertaken to reap the creative, artistic, and aesthetic benefit and value associated with the Works. By failing to obtain Seasons’ authorization to use the Works or to compensate Seasons for the use, Fun World and Easter have avoided paying license fees and other financial compensation associated with obtaining permission to exploit the Works, as well as the restrictions that Seasons is entitled to and would place on any such exploitation as conditions for Seasons’ permission, including the right to deny permission altogether. In addition, Seasons’ business reputation and good will have been significantly injured. Seasons has seen significant declines in the sales of its actual products which corresponds with the increased proliferation of cheap knock-offs that have flooded the market. Further, consumers have often been misled into believing that

they were buying Seasons authorized products only to discover that, in fact, they were receiving inferior imitations.

15. As a result of Fun World's and Easter's actions described above, Seasons has been directly damaged, and is continuing to be damaged, by the unauthorized reproduction, sale, and distribution of the Works. Fun World and Easter have never accounted to or otherwise paid Seasons for their use of the Works.

COUNT ONE: COPYRIGHT INFRINGEMENT

16. Seasons repeats and realleges the previous paragraphs hereof, as if fully incorporated herein.

17. The Works are original Halloween-themed decorations containing copyrightable subject matter for which copyright protection exists under the Copyright Act, 17 U.S.C. § 101, et. seq. Seasons USA is the exclusive owner of rights under copyright in and to the Copyrights and Seasons (HK) is the exclusive licensee of rights under copyright in and to the Copyrights. Seasons USA owns valid copyright registrations for the Works, attached as Exhibit A, pp. 12–18.

18. Through Fun World's and Easter's conduct alleged herein, including Defendants' respective reproduction, sale, and distribution of the Works without Seasons' permission, Fun World and Easter have, singularly and collectively, directly infringed Seasons' exclusive rights in the Works in violation of Section 501 of the Copyright Act, 17 U.S.C. § 501.

19. Fun World's and Easter's, infringing conduct alleged herein was, and continues to be, willful and with full knowledge of Seasons' rights in the Works, and has enabled Fun World and Easter illegally to obtain profit therefrom.

20. As a direct and proximate result of Fun World's and Easter's infringing conduct alleged herein, Seasons has been harmed and is entitled to damages in an amount to be proven at

trial. Pursuant to 17 U.S.C. § 504(b), Seasons is also entitled to recovery of Fun World's and Easter's profits attributable to their respective infringing conduct alleged herein, including from any and all sales of the Infringing Works, and an accounting of and a constructive trust with respect to such profits.

21. Alternatively, Seasons is entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c) for Fun World's and Easter's infringing conduct for each of Seasons' Works that the Defendants, singularly and collectively, have infringed, and for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

22. Seasons further is entitled to its attorneys' fees and costs pursuant to 17 U.S.C. § 505.

23. As a direct and proximate result of the Defendants' infringing conduct alleged herein, Seasons has sustained and will continue to sustain substantial, immediate, and irreparable injury, including irreparable injury to its business goodwill, for which there is no adequate remedy at law. Unless Fun World and Easter are enjoined by this Court, Fun World and Easter will continue to infringe the Copyrights. Seasons therefore is entitled to permanent injunctive relief enjoining Fun World and Easter from engaging in any ongoing infringing conduct.

PRAYER FOR RELIEF

Seasons respectfully requests the Court to:

1. Find that Fun World and Easter, singularly and collectively, have violated Section 501 of the Copyright Act (17 U.S.C. § 501);
2. Grant, upon trial on the merits, a permanent injunction against Fun World and Easter enjoining them and their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of

the foregoing persons and entities who receive actual notice of the Court's order by personal service or otherwise, from:

- a. manufacturing, distributing, marketing, advertising, promoting, displaying, or selling or authorizing any third party to manufacture, distribute, market, advertise, promote, display, or sell Works, including the Infringing Products; and
- b. aiding, assisting, or abetting any other individual or entity in doing any act prohibited by sub-paragraph (a).

3. Order that Fun World and Easter provide an accounting of their respective profits attributable to their infringing conduct from sales and any other exploitation of the Copyrights, and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Works over the past four (4) years as well as the identities of the manufacturers or other source(s) of the Infringing Products;

4. In conjunction with or in addition to a permanent injunction, grant a seizure and impoundment order under 17 U.S.C. § 503, ordering the United States Marshal to seize and take possession of all products or goods in the possession of Fun World and Easter that infringe on any of the Season's Copyrights, as well as ordering Fun World and Easter to turn over all copies and all means for reproducing copies of the infringing goods or products to the Court to be held for the duration of this case. Moreover, upon final trial or other adjudication, Seasons requests the Court to order that all infringing products be turned over to it for purposes of being destroyed;

5. Order Fun World and Easter, at its own expense, to recall the Infringing Products from any distributors, retailers, vendors, or others that have distributed the Infringing Products on behalf of the Defendants, and any products, works, or other materials that include, copy, are

derived from, or otherwise embody the Works, and that Fun World and Easter be ordered to destroy or deliver up for destruction all materials returned to them;

6. Award Seasons:

- a. Fun World's and Easter's profits obtained as a result of their infringing conduct, including but not limited to all profits from sales and other exploitation of the Copyrights and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Works, or in the Court's discretion, such amount as the Court finds to be just and proper;
- b. disgorgement of Fun World's and Easter's profits;
- c. lost profits and/or any and all other damages sustained by Seasons as a result of Fun World's and Easter's infringing conduct, in an amount to be proven at trial;
- d. alternatively, should Seasons so elect, statutory damages pursuant to 17 U.S.C. § 504(c) instead of actual damages or profits;
- e. such enhanced damages or exemplary damages to which Seasons may be entitled; and
- f. Seasons' reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505.

7. Awarding Seasons interest, including pre-judgment and post-judgment interest, on the foregoing sums at the highest rates allowed by law; and

8. Awarding such other and further relief as the Court deems just and proper.

A TRIAL BY JURY IS DEMANDED.

Dated: October 21, 2022

Respectfully submitted,

By: /s/ Steven N. Williams
Steven N. Williams
Texas State Bar No. 21577625
swilliams@munsch.com
William Zac Duffy
Texas State Bar No. 24059697
zduffy@munsch.com

MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, TX 75201
Telephone: (214) 855-7500
Facsimile: (214) 855-7584

**ATTORNEYS FOR PLAINTIFFS
SEASONS USA, INC. AND
SEASONS (HK) LTD.**